

Rule 312 Amendment
U.S.S.N. 09/615,683
Page No. 8

REMARKS

The Board of Patent Appeals held that Claims 1, 2, 3, 18, 20, 21 and 22 are not patentable. Claims 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19 and 23 are thus patentable. Accordingly, the Examiner's Amendment erroneously canceling Claims 4, 5, and 19 must be corrected before payment of the Issue Fee – due July 15, 2004. Such action is respectfully requested.

The detailed decision from the Board for each claim is provided below.

1. A backpack and chair apparatus, comprising:

a storage pack;

a frame attached to said storage pack, providing rigid structure and back support;
a plurality of straps attached to said frame enabling a person to carry said frame and said storage pack on one's back in a backpack mode;

a sub-frame pivotally attached to said frame and capable of being pivoted from the backpack mode to a chair mode thereby enabling a person to sit on the apparatus as a chair;

a locking assembly pivotally attached to said sub-frame and capable of being pivoted from a backpack mode enabling position to a chair mode locking position to lock and secure the sub-frame when in the chair mode so that the apparatus remains in the chair mode when sat on by a person.

The Examiner's rejections of this claim were decided by the Board of Appeals as follows:

Section 112 rejection for lack of enablement – reversed.

Section 112 rejection for definiteness – reversed.

Section 102 rejection as anticipated by Black – affirmed.

Rule 312 Amendment
U.S.S.N. 09/615,683
Page No. 9

Thus, according to the Board of Appeals - Claim 1 is not patentable.

2. The backpack and chair apparatus of claim 1, wherein the sub-frame is capable of being pivoted from the backpack mode, wherein the sub-frame is positioned parallel to the frame, to a chair mode, wherein the sub-frame is positioned perpendicular to the frame, thereby enabling a person to sit on the apparatus as a chair.

The Examiner's rejections of this claim were decided by the Board of Appeals as follows:

Section 112 rejection for lack of enablement – reversed.

Section 112 rejection for definiteness – reversed.

Section 102 rejection as anticipated by Black -- affirmed.

Thus, according to the Board of Appeals - Claim 2 is not patentable.

3. The backpack and chair apparatus of claim 1, wherein the storage pack and frame are removably attached.

The Examiner's rejections of this claim were decided by the Board of Appeals as follows:

Section 112 rejection for lack of enablement – reversed.

Section 112 rejection for definiteness – reversed.

Section 103 rejection as obvious over Black in view of MacLean – affirmed.

Thus, according to the Board of Appeals - Claim 3 is not patentable.

4. The backpack and chair apparatus of claim 1, further comprising a cushion attached to the sub-frame such that it acts as a back support when the apparatus is in the backpack mode and a seat cushion when the apparatus is in the chair mode.

Rule 312 Amendment
U.S.S.N. 09/615,683
Page No. 10

The Examiner's rejections of this claim were decided by the Board of Appeals as follows:

Section 112 rejection for lack of enablement – reversed.
Section 112 rejection for definiteness – reversed.
Section 102 rejection as anticipated by Black – reversed.

Thus, according to the Board of Appeals - Claim 4 is patentable.

5. The backpack and chair apparatus of claim 4, wherein the cushion is removably attached to the sub-frame.

The Examiner's rejections of this claim were decided by the Board of Appeals as follows:

Section 112 rejection for lack of enablement – reversed.
Section 112 rejection for definiteness – reversed.
Section 102 rejection as anticipated by Black – reversed.

Thus, according to the Board of Appeals - Claim 5 is patentable.

6. A backpack and chair apparatus, comprising:
a storage pack;
a frame attached to said storage pack providing rigid structure and back support;
a plurality of straps attached to said frame enabling a person to carry the said frame and said storage pack on one's back in a backpack mode;
a sub-frame pivotally attached to said frame and capable of being pivoted from the backpack mode, wherein the sub-frame is positioned parallel to the frame, to a chair mode, wherein the sub-frame is positioned perpendicular to the frame, thereby enabling a person to sit on the apparatus as a chair;

Rule 312 Amendment
U.S.S.N. 09/615,683
Page No. 11

a locking assembly pivotally attached to said sub-frame and capable of being pivoted from a backpack mode enabling position to a chair mode locking position to lock and secure the sub-frame when in the chair mode so that the apparatus remains in the chair mode when sat on by a person;

a cushion attached to the sub-frame such that it acts as a back support when the apparatus is in the backpack mode and a seat cushion when the apparatus is in the chair mode.

The Examiner's rejections of this claim were decided by the Board of Appeals as follows:

Section 112 rejection for lack of enablement – reversed.

Section 112 rejection for definiteness – reversed.

Section 102 rejection as anticipated by Black – reversed.

Thus, according to the Board of Appeals - Claim 6 is patentable.

7. The backpack and chair apparatus of claim 6, wherein said locking assembly comprises a jointed swing arm pivotally attached at one end to the sub-frame and removably attachable at the other end to the frame, such that one segment of the jointed swing arm acts as a chair leg to the sub-frame when in the chair mode.

The Examiner's rejections of this claim were decided by the Board of Appeals as follows:

Section 112 rejection for lack of enablement – reversed.

Section 112 rejection for definiteness – reversed.

Section 103 rejection as obvious over Black in view of Fisher – reversed.

Thus, according to the Board of Appeals - Claim 7 is patentable.

Rule 312 Amendment
U.S.S.N. 09/615,683
Page No. 12

8. The backpack and chair apparatus of claim 7, wherein conversion of the sub-frame between backpack mode and chair mode, and correspondingly of the locking assembly between the backpack enabling position and the chair locking position, requires no tools of assembly and is performed with nominal effort.

The Examiner's rejections of this claim were decided by the Board of Appeals as follows:

Section 112 rejection for lack of enablement – reversed.

Section 112 rejection for definiteness – reversed.

Section 103 rejection as obvious over Black in view of Fisher – reversed.

Thus, according to the Board of Appeals - Claim 8 is patentable.

9. The backpack and chair apparatus of claim 6, wherein the sub-frame, when in chair mode, enables a person to sit on the apparatus as a chair of normal household stability and size.

The Examiner's rejections of this claim were decided by the Board of Appeals as follows:

Section 112 rejection for lack of enablement – reversed.

Section 112 rejection for definiteness – reversed.

Section 102 rejection as anticipated by Black – reversed.

Thus, according to the Board of Appeals - Claim 9 is patentable.

10. The backpack and chair apparatus of claim 6, wherein said straps are attached to the frame at a position that facilitates a balanced pack load that does not ride uncomfortably low on a user's back when in the backpack mode.

Rule 312 Amendment
U.S.S.N. 09/615,683
Page No. 13

The Examiner's rejections of this claim were decided by the Board of Appeals as follows:

Section 112 rejection for lack of enablement – reversed.

Section 112 rejection for definiteness – reversed.

Section 102 rejection as anticipated by Black – reversed.

Thus, according to the Board of Appeals - Claim 10 is patentable.

11. The backpack and chair apparatus of claim 6, wherein the storage pack and frame are removably attached.

The Examiner's rejections of this claim were decided by the Board of Appeals as follows:

Section 112 rejection for lack of enablement – reversed.

Section 112 rejection for definiteness – reversed.

Section 103 rejection as obvious over Black in view of MacLean – reversed.

Thus, according to the Board of Appeals - Claim 11 is patentable.

12. The backpack and chair apparatus of claim 6, wherein the cushion is removably attached to the sub-frame.

The Examiner's rejections of this claim were decided by the Board of Appeals as follows:

Section 112 rejection for lack of enablement – reversed.

Section 112 rejection for definiteness – reversed.

Section 102 rejection as anticipated by Black – reversed.

Rule 312 Amendment
U.S.S.N. 09/615,683
Page No. 14

Thus, according to the Board of Appeals - Claim 12 is patentable.

13. A backpack and chair apparatus, comprising:

a storage pack;

a frame attached to said storage pack providing rigid structure and back support;

a plurality of straps attached to said frame enabling a person to carry the said frame and said storage pack on one's back in a backpack mode, wherein said straps are attached to the frame at a position that facilitates a balanced pack load that does not ride uncomfortably low on a user's back when in the backpack mode;

a sub-frame pivotally attached to said frame and capable of being pivoted from the backpack mode, wherein the sub-frame is positioned parallel to the frame, to a chair mode, wherein the sub-frame is positioned perpendicular to the frame, thereby enabling a person to sit on the apparatus as a chair of normal household stability and size;

a locking assembly pivotally attached to said sub-frame and capable of being pivoted from a backpack mode enabling position to a chair mode locking position to lock and secure the sub-frame when in the chair mode so that the apparatus remains in the chair mode when sat on by a person, wherein said locking assembly comprises a plurality of jointed swing arms pivotally attached at one end to the sub-frame and removably attachable at the other end to the frame, such that one segment of each jointed swing arm acts as a chair leg to the sub-frame when in the chair mode;

wherein conversion of the sub-frame between backpack mode and chair mode, and correspondingly of the locking assembly between the backpack enabling position and the chair locking position, requires no tools of assembly and is performed with nominal effort;

a cushion attached to the sub-frame such that it acts as a back support when the apparatus is in the backpack mode and a seat cushion when the apparatus is in the chair mode.

Rule 312 Amendment
U.S.S.N. 09/615,683
Page No. 15

The Examiner's rejections of this claim were decided by the Board of Appeals as follows:

Section 112 rejection for lack of enablement – reversed.

Section 112 rejection for definiteness – reversed.

Section 103 rejection as obvious over Black in view of Fisher – reversed.

Thus, according to the Board of Appeals - Claim 13 is patentable.

14. The backpack and chair apparatus of claim 13, wherein the locking assembly comprises a plurality of the said jointed swing arm.

The Examiner's rejections of this claim were decided by the Board of Appeals as follows:

Section 112 rejection for lack of enablement – reversed.

Section 112 rejection for definiteness – reversed.

Section 103 rejection as obvious over Black in view of Fisher – reversed.

Thus, according to the Board of Appeals - Claim 14 is patentable.

15. The backpack and chair apparatus of claim 13, wherein the storage pack and frame are removably attached.

The Examiner's rejections of this claim were decided by the Board of Appeals as follows:

Section 112 rejection for lack of enablement – reversed.

Section 112 rejection for definiteness – reversed.

Section 103 rejection as obvious over Black in view of Fisher and MacLean – reversed.

Rule 312 Amendment
U.S.S.N. 09/615,683
Page No. 16

Thus, according to the Board of Appeals - Claim 15 is patentable.

16. The backpack and chair apparatus of claim 13, wherein the cushion is removably attached to the sub-frame.

The Examiner's rejections of this claim were decided by the Board of Appeals as follows:

Section 112 rejection for lack of enablement – reversed.

Section 112 rejection for definiteness – reversed.

Section 103 rejection as obvious over Black in view of Fisher – reversed.

Thus, according to the Board of Appeals - Claim 16 is patentable.

17. The backpack and chair apparatus of claim 16, wherein the cushion further includes a zipper for ease of removal.

The Examiner's rejections of this claim were decided by the Board of Appeals as follows:

Section 112 rejection for lack of enablement – reversed.

Section 112 rejection for definiteness – reversed.

Section 103 rejection as obvious over Black in view of Fisher and Gatling – reversed.

Thus, according to the Board of Appeals - Claim 17 is patentable.

18. The backpack and chair apparatus of Claim 1 further comprising a strap attached to the sub frame operative as a sway brace when in the chair mode.

The Examiner's rejections of this claim were decided by the Board of Appeals as follows:

Rule 312 Amendment
U.S.S.N. 09/615,683
Page No. 17

Section 112 rejection for lack of enablement – reversed.

Section 112 rejection for lack of written description – affirmed.

Section 112 rejection for definiteness – reversed.

Thus, according to the Board of Appeals - Claim 18 is not patentable.

19. The backpack and chair apparatus of Claim 1 further comprising a plurality of seat braces operative as stabilizers to prevent the chair from collapsing forward.

The Examiner's rejections of this claim were decided by the Board of Appeals as follows:

Section 112 rejection for lack of enablement – reversed.

Section 112 rejection for definiteness – reversed.

Section 102 rejection as anticipated by Black – reversed.

Thus, according to the Board of Appeals - Claim 19 is patentable.

20. The backpack and chair apparatus of Claim 3 wherein the pack bag is removably attached with a plurality of turn buckles.

The Examiner's rejections of this claim were decided by the Board of Appeals as follows:

Section 112 rejection for lack of enablement – reversed.

Section 112 rejection for definiteness – reversed.

Section 103 rejection as obvious over Black in view of MacLean – affirmed.

Thus, according to the Board of Appeals - Claim 20 is not patentable.

Rule 312 Amendment
U.S.S.N. 09/615,683
Page No. 18

21. The backpack and chair apparatus of Claim 4 wherein the cushion is wedge shaped.

The Examiner's rejections of this claim were decided by the Board of Appeals as follows:

Section 112 rejection for lack of enablement – reversed.

Section 112 rejection for definiteness – reversed.

Section 103 rejection as obvious over Black in view of Fisher and Gatling – affirmed.

Thus, according to the Board of Appeals - Claim 21 is not patentable.

22. The backpack and chair apparatus of Claim 5 wherein the cushion is attached using side release buckles.

The Examiner's rejections of this claim were decided by the Board of Appeals as follows:

Section 112 rejection for lack of enablement – reversed.

Section 112 rejection for lack of written description – affirmed.

Section 112 rejection for definiteness – reversed.

Section 103 rejection as obvious over Black in view of Fisher and Gatling – reversed.

Thus, according to the Board of Appeals - Claim 22 is not patentable.

23. The backpack and chair apparatus of Claim 7 wherein the locking assembly further comprises a male locking brace and a female brace catch that interconnect to secure the locking assembly.

The Examiner's rejections of this claim were decided by the Board of Appeals as follows:

Rule 312 Amendment
U.S.S.N. 09/615,683
Page No. 19

Section 112 rejection for lack of enablement – reversed.

Section 112 rejection for lack of written description – reversed.

Section 112 rejection for definiteness – reversed.

Section 102 rejection as anticipated by Black – reversed.

Section 103 rejection as obvious over Black in view of Fisher – reversed.

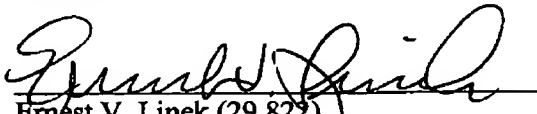
Thus, according to the Board of Appeals - Claim 23 is patentable.

In view of the decision of the Board of Patent Appeals, correction of the Examiner's Amendment is thus respectfully requested.

CERTIFICATE OF FACSIMILE TRANSMISSION

The undersigned hereby certifies that this correspondence was submitted by facsimile in the USPTO on the date shown on Page 1.

Respectfully submitted,


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